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APPENDIX II

Sectional Analysis and Explanation

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CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1963

FOR CERTAIN EMPLOYEES

SECTIONAL ANALYSIS AND EXPLANATION

(NOTE: Except for such changes as are necessary to reflect terminology applicable to the Central Intelligence Agency, most of the proposed provisions are substantively the same as, or identical with, the corresponding provisions of the Foreign Service Act of 1946, as amended. For convenient reference, the corresponding section number under the Foreign Service Act of 1946, as amended, is furnished at the end of each explanatory statement below (for example, "Section 801, FSA") where applicable.)

* * * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I - SHORT TITLE AND DEFINITIONS

PART A - SHORT TITLE

Sec. 101. This Act may be cited as the "Central Intelligence Agency Retirement Act of 1963 for Certain Employees".

Explanation: This section provides a short title for this bill.

PART B - DEFINITIONS

Sec. 111. When used in this Act, the term--

(1) "Agency" means the Central Intelligence Agency; and

(2) "Director" means the Director of Central Intelligence.

Explanation: This section defines the terms "Agency" and "Director" as these terms are used throughout the bill.

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TITLE II - THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

PART A - ESTABLISHMENT OF SYSTEM

Rules and Regulations

Sec. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, referred to hereafter as the system.

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947, as amended, (50 U.S.C. 403(d)(3)) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 et seq.) or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court.

Explanation: This section gives the Director of Central Intelligence the authority necessary to establish and maintain a retirement system for a limited number of employees and to prescribe rules and regulations governing its administration. (Section 801, FSA)

In view of the security classification of information concerning the service of Agency employees, the facts pertinent to determinations made under this Act will ordinarily be of such a nature that they cannot be publicly disclosed. Accordingly the section provides that determinations of the Director under this Act are final and conclusive and not subject to judicial review. Legislative precedent for this provision is contained in the Civil Service Retirement Act which provides in section 16(c) that determinations by the Commission of questions of dependency and disability under that Act are not reviewable. Other precedents are contained in the Atomic Energy Act which provides that where Restricted Data [redacted] involved determinations of the Commission will not be subject to judicial review and in the Foreign Claims Settlement Act of 1949. (See 42 U.S.C. 2231 and 22 U.S.C. 1623(h)/)

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Establishment and Maintenance of Fund

Sec. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter as the fund.

Explanation: This section provides for establishment and maintenance of the Central Intelligence Agency Retirement and Disability Fund by the Director. (Section 802, FSA, and 43 Stat. 144)

Participants

Sec. 203. The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.

Explanation: This section necessarily deviates from the comparable provision of the Foreign Service Act of 1946, as amended, since Foreign Service Officers are automatically covered by virtue of their appointments under the Foreign Service Act. However, only a limited number of Agency employees will serve under conditions which will warrant other than normal retirement considerations and those who are to be designated as participants pursuant to this section will undergo a rigid selection process. (Sec. 803, FSA)

This retirement system is designed for those officers whose careers over the years are predominantly concerned with the conduct and support of intelligence activities in foreign countries. It is intended to designate an employee as a participant in this system at the earliest time after he has gained full career employee status in the Agency that it can be determined that his career field of work is in the conduct and support of intelligence activities in foreign countries. Thereafter, his service record will be reviewed periodically to verify that his career has remained in this field and that he is in fact performing qualifying service. If on such review it should be determined that an officer's career specialization has permanently shifted to a different field, he will be transferred to the civil service retirement system. However, when an employee who has been designated as a participant has met all of the minimum requirements for retirement under this system and then shifts to another field of career specialization, he would ordinarily be viewed as having acquired a right to the benefits he has already earned under this system and would be permitted to remain in it. Consequently, the section provides that an employee who has completed fifteen years of service in the Agency and whose career at that time is adjudged to be qualifying for this system has the right to remain in this system for the duration of his employment by the Agency and may not be divested of this right by action of the Director.

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Annuitants

Sec. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term--

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by marriage to the participant.

(2) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(3) "Child" means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who, because of physical or mental disability incurred before age eighteen, is incapable of self-support. In addition to the offspring of the participant and his or her spouse, the term includes (i) an adopted child, and (ii) a stepchild or recognized natural child who received more than one-half of his support from the participant.

Explanation: This section defines annuitants who may be eligible for benefits under the retirement system. (Section 804, FSA)

PART B - COMPULSORY CONTRIBUTIONS

Sec. 211. (a) Six and one-half per centum of the basic salary received by each participant shall be contributed to the fund for the payment of annuities, cash benefits, refunds, and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund shall be deposited by the Agency to the credit of the fund.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

Explanation: This section provides for contributions to the retirement fund by the employee and by the Agency at the rate of six and one-half per cent of basic salary, which is the same under both the Foreign Service retirement system and the civil service retirement system. (Section 811, FSA)

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PART C. COMPUTATION OF ANNUITIES

Sec. 221. (a) The annuity of a participant shall be equal to ~~two~~ 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the fund, multipled by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251 and 252. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall be not be counted.

(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death and terminating upon the death of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 50 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by 2 1/2 per centum of any amount up to $2,400 he specified as the base for the survivor benefit plus 10 per centum of any amount over $2,400 so specified.

(c)(1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) $600;or (iii) $1,800 divided by the number of children.

(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) $720; or (iii) $2,160 divided by the number of children.

(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reasons of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

(f) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in 5 U.S.C.

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2259(b) ~~(b)~~ in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 50 per centum of the reduced annuity computed as prescribed above. The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.

Explanation: This section establishes the rates of annuities payable to participants and to specified beneficiaries under the retirement system. Comparable provision is made in section ~~804~~ 841 of the Foreign Service Act except that the first sentence of paragraph (f), regarding the designation of a beneficiary by an unmarried participant, uses language employed for the comparable provision in the Civil Service Retirement Act (section 9(h)) which provides that such individual must have an insurable interest in the participant.

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PART D - BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

Retirement for Disability or Incapacity -- Medical Examination -- Recovery

Sec. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his grade in the Agency.

(b) In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade in the Agency. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered to have been separated within the meaning of paragraphs (a) and (b) of section 234 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions.

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(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended, (5 U.S.C. 751 et seq.) covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any person to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of any other person.

(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of September 7, 1916, as amended, (5 U.S.C. 764) except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such Fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

Explanation: This section makes provision for retirement of employees who become disabled or incapacitated for duty. It establishes procedures for medical examinations and subsequent return to duty when an annuitant has recovered to the extent that he can return to duty. The section bars payment of a disability annuity if the employee is given an award of compensation for the same disability under the Federal Employees' Compensation Act. (Section 831, FSA)

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Death in Service

Sec. 232. (a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, his contributions to the fund, with interest at the rates prescribed in sections 241(a) and 281(a), shall be paid in the order of precedence shown in section 241(b).

(b) If a participant, who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a widow or a dependent widower, as defined in section 204, such widow or dependent widower shall be entitled to an annuity equal to 50 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and of section 221(a). The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

(c) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(1). The child's annuity shall begin and be terminated in accordance with the provisions of section 221(e). Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though such wife or husband or child had not survived the participant.

(d) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(2). The child's annuity shall begin and terminate in accordance with the provisions of section 221(e). Upon termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though that child had never been entitled to the benefit.

(e) If, at the time of his or her death, the participant had less than twenty years of service credit toward retirement under the system, the annuities payable in accordance with paragraph (b) of this section shall be computed in accordance with the provisions of section 221 on the assumption he or she has had twenty years of service, but the additional service credit that may accrue to a deceased participant under this provision shall in no case exceed the difference between his or her age on the date of death and the mandatory retirement age applicable to his or her grade in the Agency. In all cases arising under paragraphs (b),

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(c), (d), or (e) of this section, it shall be assumed that the deceased participant was qualified for retirement on the date of his death.

Explanation: This section provides for payment of an annuity to the survivor(s) of an employee who dies while in active service. If no annuity is payable, this section provides for payment of his contributions plus interest to a named beneficiary, or specified survivors, or his estate, in a prescribed order of precedence. (Section 832, FSA)

Voluntary Retirement

Sec. 233. Any participant in the system who is at least fifty years of age and has rendered twenty years of service may on his own application and with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of section 221 provided he has not less than five years of service with the Agency.

Explanation: This section provides for voluntary retirement of an officer when he reaches age 50 and has at least five years of Agency service and a total of twenty years of service credit under the system. However, such retirement must be on application by the participant and with the consent of the Director. (Section 636, FSA)

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Sec. 234. (a) Any participant who separates from the Agency after obtaining at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), may, upon separation from the Agency or at any time prior to becoming eligible for an annuity, elect to have his contributions to the fund returned to him in accordance with the provisions of section 241, or (except in cases where the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States) to leave his contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at the age of sixty years.

(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section to receive a deferred annuity commencing at the age of sixty dies before reaching the age of sixty his contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

(c) The Director may in his discretion retire participants in grade GS-14 and above. If so retired, they shall receive retirement benefits in accordance with the provisions of section 221, provided they have in each case not less than five years of qualifying and a total of ten years of service with the Agency. Any individual so retired who does not meet these service requirements shall receive the benefits provided for individuals in grade GS-13 as set out in paragraph (d) of this section.

(d) The Director may in his discretion retire participants in grade GS-13 and below and each such participant shall receive--

(1) one-twelfth of a year's salary at his then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his then current salary rate, payable without interest, from the fund, in three equal installments on the 1st day of January following the participant's retirement and on the two anniversaries of this date immediately following: Provided, That in special cases, the Director may in his discretion accelerate or combine the installments; and

(2) a refund of the contributions made to the fund, with interest as provided in section 241(a), except that in lieu of such refund such participant, if he has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), may elect to receive retirement benefits on reaching the age of sixty in accordance with the provisions of section 221. In the event that a participant who was separated from grade GS-13 or GS-12 and who has elected to receive retirement benefits dies before reaching the

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age of sixty, his death shall be considered a death in service within the meaning of section 232. In the event that a participant who was separated from grade GS-11 or below and who has elected to receive retirement benefits dies before reaching the age of sixty, the total amount of his contributions made to the fund, with interest as provided in section 241(a), shall be paid in accordance with the provisions of section 241 (b).

(e) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, (31 U.S.C. 203) or the provisions of any other law, a participant who is retired in accordance with the provisions of paragraph (d) of this section shall have the right to assign to any person or corporation the whole or any part of the benefits receivable by him pursuant to paragraph (d)(1) of this section.

Explanation: This section provides for the involuntary retirement of employees by the Director. Retirement benefits provided for employees in GS-14 and above are the same as those provided for Foreign Service Officers in Classes 1, 2, and 3 except that more stringent service requirements have been established for this system. In order to be retired with an immediate annuity, an employee in GS-14 and above must have at least ten years of service with the Agency which includes at least five years of service of a nature qualifying him for coverage under this system. Employees in GS-14 and above who do not meet these service requirements will receive the benefits provided for employees in GS-13. The retirement benefits provided for employees in GS-13 and below are the same as those provided for Foreign Service Officers in Class 4 and below. The linkage levels established in the Federal Salary Reform Act of 1962 (Public Law 87-793) to provide comparability for pay purposes have been used to relate Foreign Service classes to the Agency's General Schedule grades.

Comparable sections of FSA are as follows:

CIA System	Foreign Service System
Sec. 234(a) (Refund of contributions)	Sec. 834(a) and 637(b)
Sec. 234(b) (Disposition of contributions upon death prior to receipt of deferred annuity)	Sec. 834(b)
Sec. 234(c) (Involuntary retirement--employees in grades GS-14 and above)	Sec. 519, 633(b) and 634(a)
Sec. 234(d) (Involuntary retirement--employees in grades GS-13 and below)	Sec. 633(b) and 634(b)
Sec. 234(e) (Assignment of benefits)	Sec. 634(c)

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Mandatory Retirement for Age

Sec. 235. (a) Any participant in the system in grade GS-18 or above shall upon reaching the age of sixty-five be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such a participant's service for a period not to exceed five years.

(b) Any participant in the system, other than in grade GS-18 or above, shall upon reaching the age of sixty be retired from the Agency and receive retirement benefits in accordance with the provisions of section 221, but whenever the Director shall determine it to be in the public interest, he may extend such a participant's service for a period not to exceed five years.

Explanation: This section provides for the mandatory retirement of employees in GS-18 or above upon reaching age 65 and of other employees upon reaching age 60. As in the preceding section, conversion to Agency grades was achieved by application of the linkage levels established in the Federal Salary Reform Act of 1962. (Sections 631 and 632, FSA)

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PART E - DISPOSITION OF CONTRIBUTIONS AND INTEREST IN EXCESS OF BENEFITS RECEIVED

Sec. 241. (a) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 281, shall be returned to him.

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at 4 per centum per annum compounded annually as is provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries designated by such participant in writing to the Director;

(2) If there be no such beneficiary, to the surviving wife or husband of such participant;

(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b)(6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

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Explanation: This section provides for the refund of contributions, plus interest at 4 per cent, to an employee who is separated without attaining eligibility for an immediate or deferred annuity.

The section further provides for the disposition of contributions, plus interest at 4 per cent, which are in excess of the amounts paid to a participant or to an annuitant claiming through him. If at the time annuity payments cease, the accumulated annuities paid to the participant or to an annuitant claiming through him, or both, are less than the total amount of the contributions of the participant, plus interest at 4 per cent, the excess of such contributions and interest is payable to a named beneficiary, or specified survivors, or his estate in the same order of precedence as has been established under the Foreign Service and the Civil Service retirement systems. (Section 841, FSA)

PART F - PERIOD OF SERVICE FOR ANNUITIES

Computation of Length of Service

Sec. 251. For the purposes of this Act, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended, (5 U.S.C. 751 et seq.) and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Explanation: This section provides that the period of service of a participant under this system shall begin as of the date he becomes a participant but excludes periods of separation from the Agency or leaves of absence in excess of six months except when such leave is during a period when the participant is receiving benefits under the Federal Employees' Compensation Act (for illness or injury incurred in the performance of duty) or when such leave is for military service. (Section 851, FSA)

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Prior Service Credit

Sec. 252. (a) A participant may, subject to the provisions of this section, include in his period of service--

(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

(b) A participant may obtain prior civilian service credit in accordance with the provisions of paragraph (a)(1) of this section by making a special contribution to the fund equal to 5 per centum of his basic annual salary for each year of service for which credit is sought prior to November 8, 1960, and at 6 1/2 per centum thereafter with interest compounded annually at 4 per centum per annum to the date of payment. Any such participant may, under such conditions as may be determined in each instance by the Director, pay such special contributions in installments.

(c)(1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

(2) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section shall be required to make contributions in addition to those transferred, for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by section 211 of this Act for contributions to the fund.

(3) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the fund in accordance with the provisions of paragraph (b) of this section.

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(d) No participant may obtain prior civilian service credit toward retirement under the system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a)(2) of this section by applying for it to the Director prior to retirement or separation from the Agency. However, in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or is awarded under chapter 67 of title 10 of the United States Code, the period of such military or naval service shall be included. No contributions to the fund shall be required in connection with military or naval service credited to a participant in accordance with the provisions of paragraph (a)(2) of this section.

Explanation: This section establishes the conditions for credit under the retirement system of previous civilian and military service. This section permits inclusion of prior qualifying service, as that term is used in the Act, performed at any time as an employee of the Agency. It also provides for the transfer of an individual's contributions from other Government retirement systems to the Central Intelligence Agency Retirement and Disability Fund. These provisions are comparable to those of the Foreign Service and civil service retirement systems. (Section 852, FSA)

Credit for Service While on Military Leave

Sec. 253. Contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Explanation: This section waives any requirement for contributions to the fund during leave of absence for military or naval service. (Section 854, FSA)

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Estimate of Appropriations Needed

Sec. 261. The Director shall prepare the estimates of the annual appropriations required to be made to the fund, and shall cause to be made actuarial valuations of the fund at intervals of five years, or oftener if deemed necessary by him.

Explanation: This section provides for estimates of annual appropriations required to be made to the fund and for actuarial valuation of the fund at least every five years. It is ~~identical~~ consistent with section 861, FSA, except that there has been deleted the authorization to expend money for administering the program from the fund since funds required for such purposes would be provided by annual appropriations.

Investment of Moneys in the Fund

Sec. 262. The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in his judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances, and the income derived from such investments shall constitute a part of such fund.

Explanation: This section provides necessary authority for the Director to invest funds which are not immediately required and to deposit to the fund the income produced by such investment. (Section 863, FSA)

Attachment of Moneys

Sec. 263. None of the moneys mentioned in this Act shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 234(e).

Explanation: This section provides necessary protection to moneys in the fund to preserve them for the payment of annuities, cash benefits, refunds, and allowances as provided under the proposed retirement system. (Section 864, FSA)

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PART H - RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN THE AGENCY, OR REEMPLOYED IN THE GOVERNMENT

Recall

Sec. 271. (a) The Director may recall any retired participant to duty in the Agency whenever he shall determine such recall is in the public interest.

(b) Any such participant recalled to duty in the Agency in accordance with the provisions of paragraph (a) of this section or reinstated or reappointed in accordance with the provisions of section 231(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the fund in accordance with the provisions of section 211. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of section 221.

Explanation: This section provides for the recall to active service of an annuitant when necessary in the public interest. It further provides that such a recalled annuitant shall be entitled to the full salary of the grade in which he serves upon recall and for recomputation of his annuity upon completion of such service. (Sections 520(b) and 871, FSA)

Reemployment

Sec. 272. Notwithstanding any other provision of law, a participant retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

Explanation: This section authorizes the reemployment in Government of an employee retired under the Agency system. This authority is similar to that applicable to civil service retirees and is comparable to section 520 (c) FSA.

Reemployment Compensation

Sec. 273. (a) Notwithstanding any other provision of law, any annuitant who has retired under this Act and who is reemployed in the Federal Government service in any appointive position either on a part-time or full-time basis shall be entitled to receive the salary of the position in which he is serving plus so much of his annuity payable under this Act which when combined with such salary does not exceed during any calendar year the basic salary such annuitant was entitled to receive on the date of his retirement from the Agency. Any such reemployed annuitant who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this paragraph shall be entitled to such salary in lieu of benefits hereunder.

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(b) When any such retired annuitant is reemployed, the employer shall send a notice to the Agency of such reemployment together with all pertinent information relating thereto, and shall pay directly to such annuitant the salary of the position in which he is serving.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, including his annuity, payable in accordance with the provisions of this Act.

Explanation: This section provides that an annuitant who is reemployed in the federal service in an appointive position is entitled to retain the salary of his position plus his annuity up to a combined amount which does not exceed the basic salary of the grade which he held upon retirement. In the event of an overpayment, the amount of such overpayment may be withheld from either the salary or the annuity payable to the reemployed annuitant. (Section 872, FSA)

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PART 4 VOLUNTARY CONTRIBUTIONS

Sec. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be--

(1) returned to him in lump sum; or

(2) used to purchase an additional life annuity; or

(3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or

(4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.

(b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

(c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

(d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

Explanation: This section provides for an employee to make voluntary contributions to the fund if he wishes to do so in order to increase the annuity to be paid to him or to a survivor upon his retirement or death. Similar provision is contained in both the Foreign Service and the civil service retirement systems. (Section 881, FSA)

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APPENDIX I

Comparison of Pertinent Provisions of the Civil Service, Foreign Service, and Proposed CIA Retirement and Disability Systems

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